

REMARKS**Summary of the Office Action**

Claims 1-10 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 1-6, 9, and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Weinstock (U.S. Patent No. 6,166,314) (hereinafter "Weinstock").

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Weinstock in view of Larson (U.S. Patent No. 5,440,756) (hereinafter "Larson").

Summary of the Response to the Office Action

Applicants have canceled claims 3-5 without prejudice or disclaimer. Applicant has amended claims 1 and 6-10 and added new claims 11-13 to differently describe embodiments of the disclosure of the instant application. Accordingly, claims 1, 2 and 6-13 are currently pending for consideration.

Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 1-10 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant has canceled claims 3-5 without prejudice or disclaimer, rendering the rejections of these claims moot. Applicant has amended the remaining claims in accordance with the Examiner's comments in the Office Action at pages 2-4. Applicant respectfully submits that all remaining claims, as amended, fully comply with the requirements of 35 U.S.C. § 112, second paragraph. Accordingly, Applicant respectfully requests that the rejections under 35 U.S.C. § 112, second paragraph be withdrawn.

Rejections under 35 U.S.C. §§ 102(b) and 103(a)

Claims 1-6, 9, and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Weinstock. Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Weinstock in view of Larson. Applicant has canceled claims 3-5 without prejudice or disclaimer, rendering the rejections of these claims moot. Also, Applicant has amended claims 1 and 6-10 to differently describe embodiments of the disclosure of the instant application. To the extent that these rejections might be deemed to still apply to the currently pending claims, as newly-amended, they are respectfully traversed for at least the following reasons.

Applicant respectfully submits that Weinstock discloses a machine 10 including a score processor 12 for inputting a music score, an input processor 14 for receiving performance input and comparing the received performance input with the input music score, and an output processor 18 for outputting a stream of MIDI codes synchronized to the received performance input in accordance with the compared result in the input processor 14.

However, Applicant respectfully submits that the machine of Weinstock is a music tracking machine for outputting the MIDI codes stream for an automatic performance of a synchronized accompaniment in accordance with a music score previously selected by a performer. The received performance input in Weinstock is not compared with music scores for a plurality of music pieces as specifically described in independent claim 1 of the instant application. In the comparison of Weinstock, a performance location in a music score is determined in realtime. Applicant respectfully submits that in Weinstock, a desired music piece can not be searched.

Therefore, Applicant respectfully submits that Weinstock does not teach, or even suggest, a configuration that includes the “comparator” and “output device” as specifically described in the combination of claim 1 of the instant application. In addition, the method independent claim 9 and the computer program independent claim 10 each describe combinations that include similar features as discussed above with regard to independent claim 1. As a result, Applicant respectfully submits that similar arguments also apply to the remaining independent claims 9 and 10.

Accordingly, Applicant respectfully asserts that the rejections under 35 U.S.C. §§ 102(b) and 103(a) should be withdrawn because Weinstock does not teach or suggest each feature of independent claims 1, 9 and 10, as amended. As pointed out in MPEP § 2131, “[t]o anticipate a claim, the reference must teach every element of the claim.” Thus, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).” Similarly, MPEP § 2143.03 instructs that “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974).”

Furthermore, Applicants respectfully assert that the remaining dependent claims are allowable at least because of their dependence from newly-amended independent claim 1, and the reasons set forth above. Moreover, the additionally applied reference to Larson, with respect to claims 7 and 8, does not cure the deficiencies discussed above with regard to Weinstock. Further, Applicant respectfully submits that Larson does not teach, or even suggest, a

configuration that includes a "chord candidate detector" as described in claims 7 and 8 of the instant application.

CONCLUSION

In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and respectfully requests withdrawal of all outstanding rejections, and reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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